IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicat	ion of:)	Group Art Unit:	3773
	Michael HOGENDIJK)	1	
G : 131	10/770 040)	Examiner:	Vy Q BUI
Serial No.:	10/772,840)		
)	Confirmation No.:	6012
Filed:	February 4, 2004)		
)		
For:	RIBBON-TYPE VASCULAR)		
	PROSTHESIS HAVING STRESS-)		
	RELIEVING ARTICULATION AND)		
	METHODS OF USE			
			San	Diego, California

Mail Stop: Petition Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

DECLARATION

I, Janelle Humphrey, declare:

- 1. I work in the capacity of a Patent Prosecution Paralegal with Luce, Forward, Hamilton & Scripps, LLP, with a business address of 11988 El Camino Real, Suite 200, San Diego, California 92130. My home address is 6346 Osler Street, San Diego, California 92111.
- 2. I make this declaration in support of the accompanying petition in the above-identified patent application for revival due to failure to reply to an Office Action dated October 18, 2007.
- 3. On February 22, 2008, Mr. DeHaemer, an attorney at the firm, gave me a chart generated using data from, private PAIR website identifying all applications which have had a status change within the prior six months.
- 4. On February 22, 2008, by comparing the chart identified above to our docketing system, I discovered that an Office Action was mailed on October 18, 2007, for United States Patent Application No. 10/772,840 (our reference 31530-1050), but there was no record of the Office Action in the docket system.
- 5. The mail, when it arrives at Luce Forward, is opened, date stamped, and entered into our back-up docketing system by our department head legal secretary. These documents are then hand delivered to me for entry into our primary docket system. I have examined both

docketing systems and neither docketing system has an entry for an Office Action mailed October 18, 2007, for United States Patent Application No. 10/772,840.

- 6. Enclosed with this Declaration please find, as Exhibit 1, a Due Date report from the docket system of all items due during two weeks surrounding the January 18, 2008, due date of the non-received Office Action. This report is included to indicate that mail is docketed on a consistent and timely basis. Although the report has an entry for the non-received Office Action, the Office Action was not entered into the docket system until February 22, 2008. To protect client and application confidentiality, client names and other confidential information on the Due Date report have been redacted.
- 7. Also enclosed, Exhibit 2, is a copy of an Actions Due page of the docket record concerning the non-received Office Action. As indicated in the "Date Created" field, the entry for the Office Action was entered into the docket system on February 22, 2008, the date which I discovered the missing Office Action.
- 8. Finally, enclosed is a copy of the Remarks section, Exhibit 3, of the docket record for the present case. There are no entries between the mailing date of the non-received Office Action (October 18, 2007) and the date I discovered the Office Action.
- 9. The delay in filing the required reply to the Office Action prior to the due date was unavoidable. Luce Forward uses great care and diligence in maintaining our docket systems. We exercise this care and rely upon the ordinary and trustworthy agency of the United States Postal Service as an instrumentality to conduct the important function of delivering correspondence from the United States Patent and Trademark Office.
- 10. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Signature:	
Name: Janelle Humphrey	
Date: March 5, 2008	

Wednesday, March 05, 2008	Due Date Action Due Indicator Action Type	14-Jan-2008 I Month to OA Due Date Reminder US-3 Month Office Action		16-Jan-2008 2 mo. / Annuity Due	Reminder Annuity	16-Jan-2008 2 mo. / Annuity Due	Reminder Annuity		Reminder Annuity			16-Jan-2008 3 Months Until Response Due		908	800	800	008	008
Due Date	Case Number/SubCase Country	31530-1010 United States of America	Title: VASCULAR PROTHESIS AND METHODS OF	26015-P06	Canada Title: IRRADIATION SYSTEM UTILIZING CONVEYO	26015-P08	Australia Tido: IRRADIATION SYSTEM	IME. INCOMPANION OF THE	26015-P14	26015-P14 Hong Kong	26015-P14 Hong Kong	26015-P14 Hong Kong 31698-1103	26015-P14 Hong Kong 31698-1103 Japan	26015-P14 Hong Kong 31698-1103 Japan Title: METHODS AND APPAR. COUPLED WITH IMPRO [JM-009-3 JP]	26015-P14 Hong Kong 31698-1103 Japan Japan Title: METHODS AND APPAR COUPLED WITH IMPRO [JM-009-3 JP] 32584-1030	26015-P14 Hong Kong 31698-1103 Japan Tüle: METHODS AND APPAR. COUPLED WITH IMPRO [JM-009-3 JP] 32584-1030 United States of America	26015-P14 Pending Hong Kong 31698-1103 Published Japan Title: METHODS AND APPARATUS FOR A STENTIN COUPLED WITH IMPROVED PROTECTION AG [JM-009-3 JP] 32584-1030 Published United States of America Title: HYDROPONIC DEVICE AND HYDROPONIC Po	26015-P14 Hong Kong 31698-1103 Japan Tüle: METHODS AND APPAR. COUPLED WITH IMPRO [JM-009-3 JP] 32584-1030 United States of America Tüle: HYDROPONIC DEVICE. 26015-P80
Due Date List By Date 14-Jan-2008 To 25-Jan-2008	Status Client	Published	SAND METHODS OF USE [MH-001]	Granted	UTILIZING CONVEYOR-TRANSPO	Granted		Title: IRRADIATION SYSTEM UTILIZING CONVEYOR-TRANSPORTED ARTICLE CARRIERS	UTILIZING CONVEYOR-TRANSPO	UTILIZING CONVEYOR-TRANSPO	UTILIZING CONVEYOR-TRANSPO	UTILIZING CONVEYOR-TRANSPORTED Pending Published	UTILIZING CONVEYOR-TRANSPORTED Pending Pending Published	Title: IRRADIATION SYSTEM UTILIZING CONVEYOR-TRANSPORTED ARTICLE CARRIERS 26015-P14 Pending 02100136.3 09-Jan-20 Hong Kong 31698-1103 Published 2002-563865 19-Dec-2 Japan Japan METHODS AND APPARATUS FOR A STENTING COMPRISING ENHANCED EMBOLIC PROTECTION COUPLED WITH IMPROVED PROTECTION AGAINST RESTENOSIS AND THROMBUS FORMATION [JM-009-3 JP]	UTILIZING CONVEYOR-TRANSPORTED Pending Published ATUS FOR A STENTING COMPRISINATED PROTECTION AGAINST REST	Pending Pending Published ATUS FOR A STENTING COMPRISH VED PROTECTION AGAINST REST Published	Pending Pending Published ATUS FOR A STENTING COMPRISH VED PROTECTION AGAINST REST Published Published	Pending Pending Published ATUS FOR A STENTING COMPRISH VED PROTECTION AGAINST REST Published Published Granted
	App Number Pat Number	10/342,427		2,157,907	2,157,907 DR-TRANSPORTED ARTICLE CARRIERS	A CANADA CANADA CANADA MANAMANTA MANAMANTA CANADA C	64122/94	64122/94 674404 RTED ARTICLE CARRIERS	64122/94 674404 RTED ARTICLE CARRIERS	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865 NG ENHANCED EMBOLIC PENOSIS AND THROMBUS FOR	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865 NG ENHANCED EMBOLIC P. ENOSIS AND THROMBUS FO	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865 NG ENHANCED EMBOLIC PENOSIS AND THROMBUS FOR THROMBUS FOR THE PROMBUS FOR THE PRO	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865 NG ENHANCED EMBOLIC PENOSIS AND THROMBUS FOR ENOSIS AND THROMBUS	64122/94 674404 RTED ARTICLE CARRIERS 02100136.3 2002-563865 NG ENHANCED EMBOLIC PENOSIS AND THROMBUS FOR 10/535,727
	App Date Iss Date	13-Jan-2003		16-Mar-1994	04-Jan-2000		16-Mar-1994	16-Mar-1994 09-Apr-1997	16-Mar-1994 09-Apr-1997 09-Jan-2002	16-Mar-1994 09-Apr-1997 09-Jan-2002	16-Mar-1994 09-Apr-1997 09-Jan-2002	16-Mar-1994 09-Apr-1997 09-Jan-2002	16-Mar-1994 09-Apr-1997 09-Jan-2002	16-Mar-1994 09-Apr-1997 09-Jan-2002 19-Dec-2001 ROTECTION ORMATION	16-Mar-1994 09-Apr-1997 09-Jan-2002 19-Dec-2001 19-Dec-2001 ROTECTION ORMATION 25-Nov-2003	16-Mar-1994 09-Apr-1997 09-Jan-2002 19-Dec-2001 ROTECTION ORMATION 25-Nov-2003	16-Mar-1994 09-Apr-1997 09-Jan-2002 19-Dec-2001 ROTECTION ORMATION 25-Nov-2003	16-Mar-1994 09-Apr-1997 09-Jan-2002 19-Dec-2001 ROTECTION ORMATION 25-Nov-2003 20-Aug-2002
Page: 1	Attys	MJD		DEH	PKH KH	י י י	חשע	PKH KH	PKH KH	PKH KH DEH	PKH KH DEH PKH	PKH KH DEH PKH KH	PKH KH DEH PKH RH MJD	PKH KH DEH PKH KH	РКН КН ДЕН РКН КН МЛД	PKH KH DEH PKH KH MJD MPB	PKH KH DEH PKH KH MJD MPB	РКН КН ОЕН РКН КН МЛД МРВ

		14-Jan-2008	To 25-Jan-2008			
Due Date Indicator	Action Due Action Type	Case Number/SubCase	e Status Client	App Number Pat Number	App Date Iss Date	Attys
18-Jan-2008 Due Date	3 Month Due Date US-Final Office Action	31530-1050 United States of America	Published	10/772,840	04-Feb-2004	MJD
		<i>Title:</i> RIBBON-TYPE VASCULAR PROMETHODS OF USE (NVS-1050)	<i>Title:</i> RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTICULATION AND METHODS OF USE (NVS-1050)	S-RELIEVING ARTICULATIO	N AND	
19-Jan-2008	2 Months Until Response Due	30238-444	Pending	2,509,674	12-Dec-2003	MPB
Reminder	Foreign Office Action	Canada	1			
20-Jan-2008	disclosure	30238-1087	Published	1897-2007	27-Jun-2007	MPB
Due Date		Chile Title: MULTIPURPOSE EXERCISE SYSTEM	CISE SYSTEM			
20-Jan-2008	DDL Year 4 MF w/surcharge	31981-6/P02	Granted	09/228,929	12-Jan-1999	MPB
Due Date	DDL Year 4 MF	United States of America			20-Jan-2004	KAC
		Title: Systems, devices and methor	<i>Title:</i> Systems, devices and methods for reviewing selected signal segments	nents		
21-Jan-2008	2 mo. / Annuity Due	26015-P03	Granted			DEH
Reminder	Annuity	Belgium Title: IRRADIATION SYSTEM	Belgium 7746870 Title: IRRADIATION SYSTEM UTILIZING CONVEYOR-TRANSPORTED ARTICLE CARRIERS	0746870 ORTED ARTICLE CARRIERS		PKH
21-Jan-2008	3 mo. / Annuity Due	30289-1222	Published	05738690.6	21-Apr-2005	MPB
Reminder	Annuity	European Patent Convention Title: METHOD AND APPARATI NETWOOD	European Patent Convention Title: METHOD AND APPARATUS FOR WORD OF MOUTH SELLING VIA A COMMUNICATIONS	LING VIA A COMMUNICATIO		
71 Ion 2000	1 Month to Einal OA Dua Data	31520 1100	District	11/15/105/		
Reminder	US-Final Office Action	United States of America		1010000	10-94III	1

Due Date Indicator Action Due Action Type Case Number/SubCase Status App Number Pat Number App Date Pate Indicator 23-Jan-2008 3 mo to non-prov/FF DDL 34306-2/P03 Pending 60/926,054 23-Apr-2005 Due Date 1 mo to non-prov/FF DDL United States of America Published 11/044,544 26-Jan-2005 24-Jan-2008 1 st Extension Final OA Due 30289-1240 Published 11/044,544 26-Jan-2005 Due Date US-Final Office Action Title: MITHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYSTEM PROACTIVELY 24-Jan-2008 3 Months Until Response Due 31188-1063 Published 200262035 07-Mar-200 318-10617 Pending IAP 20070167 29-Sep-2001 25-Jan-2008 3 Months Until Response Due 30238-10617 Pending IAP 20070167 29-Sep-2001	Wednesday,	Wednesday, March 05, 2008	Due Date List By Date	ist By Date			Page: 3
e Action Due Case Number/SubCase Status App Number Pat Number Country Client Pat Number Pat Number Country Client Pat Number Pat Number On non-prov/FF DDL 34306-2/P03 Pending 60/926,054 I mo to non-prov/FF DDL United States of America Inmo to non-prov/FF DDL United States of America United States of America Title: METHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYS PROACTIVELY PROACTI			14-Jan-2008 T	(o 25-Jan-2008			
1 mo to non-prov/FF DDL 20289-1240 208	Due Date Indicator	Action Due Action Type	Case Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Attys
1 mo to non-prov/FF DDL United States of America 1 st Extension Final OA Due US-Final Office Action US-Final Office Action Title: METHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYSTEMS AND METHOD STORED PROACTIVELY 108 3 Months Until Response Due Foreign Office Action Title: SYSTEMS AND METHODS FOR CONDUCTING ELECTRONIC COMMERCE TRANSACTION REQUIRING MIRCOPAYMENT [GTX-001 CIP3] 109 100 100 100 100 100 100 100 100 10	23-Jan-2008	3 mo to non-prov/FF DDL	34306-2/P03	Pending	60/926,054	23-Apr-2007	PKH
11/044,544 US-Final Office Action US-Final Office Action Title: METHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYSTEMS PROACTIVELY 11/044,544 United States of America Title: METHOD AND APPARATUS FOR CONSTRUCTING A NETWORKING DATABASE AND SYSTEMS PROACTIVELY 10/04,544 11/044,544 11/044,544 11/04,5	Due Date	1 mo to non-prov/FF DDL	United States of America				MJM
PROACTIVELY Published 200262035 Japan Title: SYSTEMS AND METHODS FOR CONDUCTING ELECTRONIC COMMERCE TRANSACTION REQUIRING MIRCOPAYMENT [GTX-001 CIP3] Nonths Until Response Due 30238-10617 Pending 1AP 20070167	24-Jan-2008 Due Date	1st Extension Final OA Due US-Final Office Action	30289-1240 United States of America	Published	11/044,544	26-Jan-2005	MPB
908 3 Months Until Response Due 31188-1063 Published 200262035 Foreign Office Action Japan Title: SYSTEMS AND METHODS FOR CONDUCTING ELECTRONIC COMMERCE TRANSACTION REQUIRING MIRCOPAYMENT [GTX-001 CIP3] 908 3 Months Until Response Due 30238-10617 Pending IAP 20070167			<i>Title:</i> METHOD AND APPARATU	IS FOR CONSTRUCTING A NI	ETWORKING DATABASE AND	SYSTEM	
Title: SYSTEMS AND METHODS FOR CONDUCTING ELECTRONIC COMMERCE TRANSACTION REQUIRING MIRCOPAYMENT [GTX-001 CIP3] 30238-10617 Pending IAP 20070167	24-Jan-2008 Reminder	3 Months Until Response Due Foreign Office Action	31188-1063 Japan	Published	200262035	07-Mar-2002	MJD
3 Months Until Response Due 30238-10617 Pending IAP 20070167			<i>Tide:</i> SYSTEMS AND METHODS REQUIRING MIRCOPAYME	FOR CONDUCTING ELECTRENT [GTX-001 CIP3]	RONIC COMMERCE TRANSAC	TIONS	
	25-Jan-2008	3 Months Until Response Due	30238-10617	Pending	IAP 20070167	29-Sep-2005	MPB

Actions Due Wednesday, March 05, 2008 Page: 1

Case Number: 31530-1050 SubCase:

Country: US United States of America Case Type: CIP

Status: Published Filing Date: 04-Feb-2004

Action Type: US-Final Office Action Base Date: 18-Oct-2007

Application #: 10/772,840 Response sent date:

Action(s) Due	Due Date	Indicator	Taken
1 Month to Due Date	18-Dec-2007	Reminder	
3 Month Due Date	18-Jan-2008	Due Date	
1st Extension f/Final OA	18-Feb-2008	Due Date	
2nd Extension f/Final OA	18-Mar-2008	Due Date	
6 Month Final OA Date	18-Apr-2008	Final	

User ID: jhumphrey

Date Created: 22-Feb-2008

Last Update: 22-Feb-2008

Country Application

Wednesday, March 05, 2008

Page: 1

Case Number: 31530-1050

Country: US

SubCase:

Invention Title: RIBBON-TYPE VASCULAR PROSTHESIS HAVING STRESS-RELIEVING ARTI

Client: NovoStent Corporation

United States of America

Case Type: CIP

Application Status: Published

Application Number: 10/772,840

Filing Date: 04-Feb-2004

Publication Number: 2004-0158314

Publication Date: 12-Aug-2004

Patent Number:

Issue Date:

Parent/PCT Number: 10/342,427

Parent/PCT Date: 13-Jan-2003

Parent Issue Number:

Parent Issue Date:

Tax Schedule: LE

Expiration Date:

Confirmation #: 6012

Patent Term Adjustment: 0

Agent:

Agent Reference #:

Family Reference:

Remarks: This application is a CIP of 10/342,427 filed 01-13-2003 (31530-1010) which claims priority to 60/436,516 filed 12-24-2002

05-11-2004: Received filing receipt. Reported to client. 05-25-2004: Five (5) sheets of formal drawings filed. 04-15-2005: Supplemental IDS w/42 cited references.

03-28-2007: Received Office Action w/mailing date of March 26, 2007.

06-15-2007: Reviewed ISR for co-pending PCT, no IDS needed, reference previously

06-21-2007: Email to client enclosing draft response to OA.

06-25-2007: Email from client approving our draft response and instructed us to proceed with the filing of the Response to OA.

06-26-2007: Response to OA e-filed with the USPTO.

2-22-2008: received OA from USPTO dated 10-18-2007. Due 01-18-2008 DDL 04-18-2008. This application was lost in the mail, but was found when looking through PAIR.

03-03-2008: Filed a Rqst fo r the OA to be remailed and the clock to be restarted.

Country Application

Wednesday, March 05, 2008

Page: 2

User ID: jberry

Date Created: 10-Feb-2004

Last Update: 03-Mar-2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicat	tion of:)	Group Art Unit:	3773
	Michael HOGENDIJK)	•	
0 1 1 2 2)	Examiner:	Vy Q BUI
Serial No.:	10/772,840)		
)	Confirmation No.:	6012
Filed:	February 4, 2004)		
)		
For:	RIBBON-TYPE VASCULAR)		
	PROSTHESIS HAVING STRESS-)		
	RELIEVING ARTICULATION AND)		
	METHODS OF USE	-		

San Diego, California

Mail Stop: Petition Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

DECLARATION

I, Michael J. DeHaemer, Jr., declare:

- 1. I am an Associate Attorney at Luce, Forward, Hamilton & Scripps, LLP, and am registered to practice before the USPTO. I have a business address of 11988 El Camino Real, Suite 200, San Diego, California 92130. My home address is 11134 Tampere Ct., San Diego, CA 92131.
- 2. I make this declaration in support of a petition submitted in the above-identified patent application for non-receipt of a Final Office Action dated October 18, 2007.
- 3. On or about February 22, 2008, I accessed private PAIR and downloaded the XML file identifying applications which have had a status change within the prior six months. Using a simple script, I extracted the data from the XML file and created a chart showing the recent changes. I gave the chart to Janelle Humphrey to check against our docket system.
- 4. Ms. Humphrey later notified me that the data from private PAIR showed that a Final Office Action had been mailed in the above-identified application, but that there was no record of the Office Action in the file or docket system. A check of our secondary docket system confirmed that we had never received the Office Action.

- 5. After consulting the MPEP, the USPTO Inventor's Assistance Center, and Henry Yuen (TC-3700 SPRE), I filed the accompanying petition requesting that the Office Action be re-mailed and that the time to respond to be reset.
- 6. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

14.		
\1	gnature	١
$\mathcal{L}_{\mathbf{L}}$	gnature.	

Name: M J DeHaemer, Jr., Reg. No. 39,164

Date: March 5, 2008

701017161.1